

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

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CONTINENTAL CASUALTY CO., as  
subrogee of Canadian National  
Railway Company;

Case No. 21-cv-11760

CHUBB INSURANCE CO. OF  
CANADA, as subrogee of Canadian  
national Railway Company;

Hon. Linda V. Parker

LLOYD'S OF LONDON, SGL NO. 1,  
NEW LINE SYNDICATE 1218, as  
subrogees of Canadian National  
Railway Company;

RSA CANADA, as subrogee of  
Canadian National Railway Company

Plaintiffs,

v.

DAVID J. JOSEPH COMPANY,

Defendant.

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CANADIAN NATIONAL RAILWAY  
COMPANY; CERTAIN  
UNDERWRITERS AT LLOYD'S  
LONDON SUBSCRIBING TO  
POLICY NOS. 1814950, 1814958,  
1814959, 1814960, 1814961, 1814963,  
1814973; AMERICAN  
INTERNATIONAL GROUP UK  
LIMITED, f/k/a/ AIG EUROPE  
LIMITED; AXA XL, f/k/a XL  
INSURANCE COMPANY OF

Case No. 21-cv-11931

Hon. Linda V. Parker

CANADA; ROYAL & SUN  
ALLIANCE INSURANCE  
COMPANY OF CANADA; STARR  
INSURANCE & REINSURANCE  
LIMITED; HDI SPECIALTY  
INSURANCE COMPANY;  
ASSICURAZIONI GENERALI S.p.A.,  
IRONSHORE INSURANCE LTD.;  
and OIL CASUALTY INSURANCE,  
LTD., as Subrogees of Canadian  
National Railway Company;

Plaintiffs,

v.

THE DAVID J. JOSEPH COMPANY,

Defendant.

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**SUPPLEMENTAL BRIEF IN RESPONSE TO ORDER REGARDING  
MOTION TO DISMISS AND/OR STAY AND COMPEL ARBITRATION**

As directed by the Court's orders dated February 4, 2022 (Case No. 21-cv-11760, ECF No. 20; Case No. 21-cv-11931, ECF No. 14), Defendant, The David J. Joseph Company ("DJJ"), respectfully restates that the contract containing the arbitration provision relied upon, the only one that is properly before the Court and in the Court's possession, is styled "CN Confidential Transportation Master Agreement No. 564596-AA 0000". (See, e.g. Case No. 21-cv-11931, ECF No. 9, p.7; ECF No. 11-2). As previously stated, DJJ despite requests to plaintiffs for it, does not have and has not since received a copy of the contract styled "CN 518160-

AJ-0001”. DJJ respectfully objects to the extent the Court’s order might be read to permit an *ex parte* submission of a document that has not been established to be confidential to the exclusion of the parties before the Court and to which DJJ has not otherwise seen. DJJ respectfully submits that if there is an email submission of documentation to the Court in response to the Court’s subject orders, such submission should copy, and the documentation submitted be shared with, all counsel of record.

Respectfully submitted,

VARNUM LLP

Attorneys for Defendant David J. Joseph Co.

Dated: February 7, 2022

By: /s/ Bradley S. Defoe  
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